IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

WP(C).No. 5048 of 2007(A)

PETITIONER:

K.P.GIREESHAN, S/O. RAGHAVAN,
PARAMBATH HOUSE, P.O.CHORODE, VATAKARA,
KOZHIKKODE.

BY ADV. SRI.P.T.MOHANKUMAR

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY, LABOUR & REHABILITATION
DEPARTMENT, THIRUVANANTHAPURAM.

2. THE SECRETARY,
LABOUR & REHABILITATION DEPARTMENT,
THIRUVANANTHAPURAM.

3. THE TAHSILDAR,
REVENUE RECOVERY, VATAKARA.

4. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND
BOARD, NADAKAVU, KOZHIKODE.

5. JANU, W/O. LATE KUNHIRAMAN,
KIZHILINTAVIDE HOUSE, PUTHUR P.O.,
VATAKARA.

BY ADV. SRI.PULIKKOOL ABUBACKER
SRI.ZUBAIR PULIKKOOL
SMT.RAKHI K.KUMAR
ADV. SHRI.P.RAMAKRISHNAN, SC
ADV. SHRI.P.N.SANTHOSH, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 5048/2007

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE ORDER PASSED by the 4TH RESPONDENT, DATED 30/04/2005.

P2 : COPY OF THE JUDGMENT IN WP(C) No. 8951/2006.

P3 : COPY OF THE ORDER PASSED by the GOVERNMENT IN APPEAL, AGAINST EXT.P1 DATED 12/12/2006.

P4 : COPY OF THE REFERENCE OF DISPUTE TO THE INDUSTRIAL TRIBUNAL.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 5048 of 2007

Dated, this the 5th day of July, 2007

J U D G M E N T

Heard Learned counsel for the petitioner, the learned Standing Counsel appearing for Kerala Motor Transport Workers Welfare Fund Board and learned counsel appearing for 5th respondent. Fifth respondent is the wife of the late driver engaged by the petitioner in his mini lorry. Petitioner's case is that he had given the vehicle on hire to the husband of 5th respondent. However, though petitioner was given an opportunity to cross-examine the driver when he was alive, petitioner did not avail the opportunity. Moreover, petitioner did not co-operate in the enquiry. In the circumstances, and in view of the findings contained in the adjudication order confirmed in appeal, WP(C) is dismissed. However, if adjudication in the labour case goes in favour of the petitioner, petitioner can claim refund. In other words, amount should be recovered and paid to the beneficiaries and it is open to petitioner to claim refund if his claim is allowed later.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg